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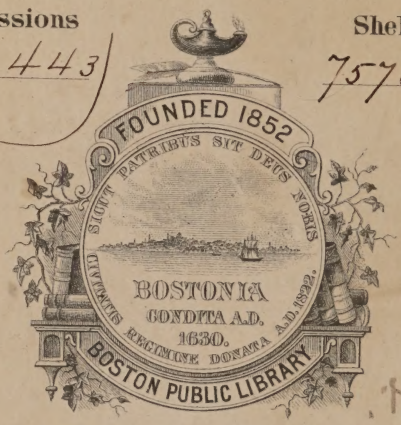

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RULES AND REGULATIONS

FOR THE GOVERNMENT

OF THE

MASSACHUSETTS STATE PRISON,

ADOPTED BY

THE BOARD OF DIRECTORS:

WITH THE

ACTS OF THE LEGISLATURE RELATING THERETO,

AND

REMARKS

ON THE STATE OF THE INSTITUTION.

BOSTON:

PRINTED BY PHELPS AND FARNHAM.

.....

February 12th, 1823.

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REMARKS

ON THE

Massachusetts State Prison.

The Rules and Regulations for the government of the Massachusetts State Prison were printed in 1816. Various and important alterations and improvements have been made since that time; and persons, who should judge of its character by the provisions then made for its government, would have a very imperfect idea of its present condition.

A want of correct information as to the objects proposed by the immediate government, the economy and discipline of the place, and the effect which has been produced by the Institution within a few years, was abundantly perceptible in the course of the debates, which occurred at the recent session of the General Court.

The subject of providing for the support of the Prison is always one of fretful and perplexing discussion. To take from the Treasury, which is supplied by the industry of honest labour, large sums every year for the maintenance of profligate felons, can never be an agreeable employment. But it is a measure of necessity and not of choice. These depredators of the public are to be found in every community. They will provide for themselves, unless the Government provide for them; and it has long since ceased to be a question, that the tax is less in amount and more equal in distribution, when it is provided by the Government, than when taken by themselves.* With this belief the State Prison was established;

* A thief or other felon at large on society will easily be able to obtain fraudulently at least one dollar per day. At this rate the 301 convicts now in the Prison would cost, if at liberty, 109,865 dollars per annum.

and was intended not only to be a relief to the public from the burthen of irregular appropriations, but to aim at higher objects, both in respect to the criminal and to society, by endeavouring to reform the one, and elevate the moral condition of the other.

But this double object has constantly presented a difficulty, which at almost every session of the Legislature has been the subject of serious disagreement in opinion. The question has invariably arisen, *What shall be done for moral improvement; and what to diminish expense?*

These are antagonist principles in the system. It is perfectly apparent to any one, who has had any practical acquaintance with the interior of the Prison, that whatever is done to promote reformation necessarily increases the annual expenditure; and whatever is contrived to increase the quantity and productiveness of labour as necessarily interferes with the moral condition of the convicts.

For example: Solitary confinement, separate dormitories, classification and a complete separation of the classes, books and religious instruction, are the most approved and probably the only means to operate upon the diseased minds of the convicts, and produce that change of heart, from which reformation can be reasonably expected. Now, whatever may be done in other prisons erected with this object, we run no hazard of contradiction in saying, that the scheme, in its full details, is impracticable at Charlestown; and to attempt as much as *is* possible, would most essentially increase the expense.

Solitary confinement implies confinement without labour. In this condition the expense of subsistence is increased without any return. The effect of this mode of punishment is to turn the mind in upon itself; to awaken remorse; to excite those painful emotions, which the contemplation of guilt invariably produces, and the distress and agony, which the punishment of guilt should enforce.

Any relief by labour to the painful monotony of self-contemplation, changes the operation of the punishment, and alters its character.

So far, then, as solitary confinement is intended to produce reformation, it is wholly in opposition to any remuneration of expense.

Or suppose the solitary cell of the convict should be converted into a work-shop. Some few ingenious men might contrive to earn

their own food; but he must be most lamentably unacquainted with the character of prisoners, who thinks it even possible that the majority of them could provide for their subsistence.

Most work usually performed in a prison could not be carried on in the cells. Other branches of labour, which might be there performed, would require as much attendance from the officers as would itself perform the task. Most work, to be profitable, must be carried on in company, some doing one part and some doing others.

There are circumstances attending a prison life, which prevent the full value of a day's labour from being ever received under the most favourable circumstances; and we cannot hesitate from our experience to pronounce, that an attempt to carry on work by prisoners in solitary cells would result in an entire loss of the whole time of the convicts. Nothing would be received by it; and the expense of maintaining them would not be relieved by any of their own aid. So far therefore as solitary imprisonment is intended for reformation, it is absolutely opposed to measures of economy.

Separate dormitories are another favourite part of a plan of reforming convicts, which is attended with additional expense. As the Prison at Charlestown is built, it is absolutely impossible to put but one man in one cell. There are 94 cells, including the Hospital Department, and 301 prisoners. A longer range of cells or another building, more fires in winter, more officers, more time taken from labour in getting them to and from their shops, would be among the additional items of expense. Whether this expense would be judiciously incurred for such an object is not the inquiry. We mean at present to say, that in this respect economy and reformation are at opposite sides.

Classification and a complete separation of the classes is the next, in fact it is the essential mode, of providing for that restoration of moral health, for which this great hospital of souls was originally intended.

Whether the advantage of such an establishment to the public would not far exceed any expense, which it might require, the wisdom of the fathers of the Commonwealth must determine; but to carry it into effect must, in the present state of the buildings at Charlestown, be attended with immense expense.

Classification must separate the convicts into three or four classes, and this distribution must depend on their moral, and not

at all on their physical characters. But convicts are to earn their bread, and for this purpose are to be let to contractors; and the value of their services in the work-shops wholly depends on the very reverse of this principle of selection. Their physical power is all that is desirable.

The most profitable and the most laborious business carried on by the State is hammering stone, which the most obdurate villain, if strong, can be made to perform; and which the most reclaimable, if weak, could not accomplish. Classes selected for moral character would not in all probability be the same as if selected on account of physical strength. In selecting some eighty or an hundred convicts for this "hard labour," in doing which the sentence of the law is literally performed, the Superintendant would necessarily gather some from each of the classes. If it was proposed to divide this business into three or four departments, and put one class of convicts in each department, you would very much increase the expense of conducting it. Any workman, who employs forty or fifty hands, will be easily able to see the inconvenience and expense, which would arise from dividing his work into different parts, upon any other principle than his own convenience.

But if practicable in this department, how would it be managed where convicts are farmed out or let by contract—unquestionably the most favourable mode of disposing of their labour?

The brush shop has twenty prisoners. Their work is in parts, and must be carried on in company. It must be done in one room. The contractor selects his men by their mechanical skill, which has very little relation to moral amendment. If his men cannot be found in one class, this business, on the principle of complete separation, must be abandoned. It would be utterly impracticable; or, at any rate, would be attended with double the expense, to provide three shops instead of one, and three overseers to inspect them.

The fewer the number of convicts, who are let for any one branch of labour, the more the difficulty; because selections made on different principles, viz. good behaviour and mechanical skill, would never result in the obtaining the same men. There must either be different shops for the same work, done for the same contractor, or the work must be abandoned. Now to find suitable labour, and in which there is the least risk of valuable stock, is always the greatest difficulty in the Prison; and of course whatever

tends to cause any profitable work to be abandoned, must increase the expense of the Institution. To carry on the same work in different shops would not answer the purposes of the contractor, and would fail, or must be pursued at great inconvenience, for which the Institution must be charged with expense.

The profits of the Institution depend on the facilities for labour. If only the same classes could work in the same room, or at the same bench, it would be in the end a prohibition of all profitable labour. Experience on this subject is worth all the theories in the world; and the whole tenor of the experience of this Institution, as recorded by our predecessors and witnessed by ourselves, demonstrates the fact, that whatever throws any embarrassment or difficulty in the way of the labour of the convicts, will in the same degree increase the expense of the Institution by injuring its income.

But the department of labour is not the only one, in which classification for the purposes of reformation must inevitably increase the expense. One eating room is provided for all the convicts; and though it would certainly be easy to divide it into as many apartments as classes, and to have an officer in each; or to bring into one room each class separately; yet the slightest consideration must shew, that both these schemes would be attended with much increase of expense. To interrupt the avocations of the work-shops at different times for each meal, would be to have a continual stoppage of labour in departments where the occupation of all is necessary for the employment of any. The man who turns the wheel would be gone at one time, and he who worked at the lathe at another; and double the time consumed by either would be lost to both.

The Hospital is open to all patients from every class, and on every occasion. Disease knows no respect of persons. Fevers, rheumatisms, accidents occur promiscuously among all classes of convicts. To preserve here the proper separation, would require as many hospitals as classes, as many apartments as convalescents, and all the accommodations, which the humanity of the Government has never yet refused to any of these miserable beings, whom Providence inflicts with disease. Other places, of indispensable resort, which it would be very troublesome in the limited enclosure at

Charlestown to multiply, give occasion now to some degree of intercourse, which could not be remedied without expense.

We add, that the appointment of a Chaplain, and whatever other means of religious instruction are provided, are deductions from the profits of labour for the purpose, or at least with the hope, of moral improvement.

From these observations it is manifest, that any extensive design of reformation must necessarily diminish the income of the Prison; and the conclusion is as true and as obvious, that to drive labour to its utmost profit is necessarily to pass over any great expectation of reform.

If solitary punishment and classification are means of improvement, promiscuous intercourse by day and confinement of many convicts in one room by night are for the same reason aggravations of the malady, for which they were sentenced. To save expense the convicts are crowded in their cells. The expense is saved, but a pestilence is generated, which becomes contagious from one mind to the other. Here it is that the novice learns his lesson of depravity and becomes skilled in its arts. Here the moral disease, which in one patient touched but the surface, is thrown in and strikes to the heart.

This is not all. Confinement is intended to make the criminal suffer. He is to have hard work and coarse fare. But *profitable* hard work cannot always be derived from coarse fare. Some men, who can earn thirty cents a day on prison fare that costs fourpence, may be able to earn fifty cents by increasing their rations. The spirits must be kept up to make ingenuity profitable. The mechanic may saw or plain or strike with the hammer, and perform his task of hard labour, and yet be of very little profit when he has finished it. To elicit his genius, and convert his mental faculties into profit, you must address yourself to his will. Hence he becomes indulged, and pays for it by labour. The severity of his punishment is diminished, because the public desire to profit by his skill and to traffic on his crime.

No man, at all acquainted with human character, can be ignorant of the difference between voluntary and involuntary labour; nor between the results of that volition, which is produced in one case by rewards, and in the other by punishment. A man may be

compelled to dig the ground, to turn a wheel, to strike a hammer; and will do it on compulsion to the extent of his ability; but what power can force out the genius of the watch-maker, the nice taste of the painter, the contrivance of the white-smith, or even the adroitness of workmanship, which makes a good shoe-maker or tailor? Whoso pretends to do this is a mere pretender, and wholly ignorant of the complex character of the human mind.*

We venture therefore the assertion, that economy and reformation are adverse objects in the establishment of the Massachusetts State Prison. They are antagonist principles; they are opposite cords; straining the one relaxes the other. We do not say they are wholly irreconcilable. On the contrary, some degree of regard can be paid to both, without endangering either; and in the management of this Institution the Directors have endeavoured to move upon that middle course, which shall unite them both in the only points in which they can be usefully united. They have proposed to themselves *not to sacrifice all hope of amendment among the convicts for a little increase of pecuniary emolument, or a little diminution of expense to the Commonwealth; and they have not followed the illusory prospect of complete reformation by sacrificing to it all regard to economy.* They have persuaded themselves that the deliberate opinion of the Legislature united with them on this point; that the idea of a revenue to the State from the iniquity of these felons would be more disgracious than the indecent tax of Vespasian; and that it would be doing well if the convicts could be made to defray the expense of their *own support.* It could not conform to the wisdom or dignity of this intelligent and humane people to expect the convicts should support the officers of the Government. The Directors have supposed, that what the State saw fit to do in establishing an Institution of great moral power and civil security, was to be done at its own expense; that the noblest of all Christian charity, not the giving of money for the

* Some of the most beautiful work in granite ever executed in the United States is now preparing at the Prison for the Massachusetts General Hospital. When the expense of the Prison is complained of, it ought to be remembered, that the Commonwealth has voluntarily given to that Institution the work of convicts amounting already to more than *thirty thousand dollars*——a noble benefaction to the cause of humanity, for which the cash account of the Prison is entitled to some little credit.

wants of the body, but virtue for the health of the soul, was indeed intended as a beneficent gratuity, and was not to be extorted from the miserable beings on whom it was conferred, by exactions, which would destroy its value or diminish its effect. With this view and on this principle the Directors of the Massachusetts State Prison have conducted its affairs. They have accomplished what they proposed; they have required of the convicts to earn their own food and raiment, and have supposed the Commonwealth would be willing to defray the expense of their guards, on an experiment which humanity and heaven required, that they might be restored to society in some degree worthy its countenance and support.* The Directors believe, that what has been reasonably proposed has in fact been accomplished. *The convicts have supported themselves,* although they have not supported the Institution; and *a moral feeling has been excited in many,* though not indeed in all, which establishes the advantage of the Institution, and renders its cost to the public the most correct economy.

To both these points they will adduce some evidence from the records of the Prison.

In the year ending 30th September, 1819, the whole expense of the Prison amounted to $62,485:18, of which sum $10,296 was for pay of officers and repairs on the buildings, and the amount paid by the State was $4,372:72.

In the year ending 30th September, 1820, the whole expense of the Prison was $49,970:10, of which sum $10,197:50 was for pay of officers and repairs, and the amount paid by the State was $6,758:31.

In the year ending 30th September, 1821, the whole expense was $38,065:57, of which the pay of officers and repairs was $9,979:50, and the State paid $7,290:77.

In the year ending 30th September, 1822, the whole expense was $65,758:02, of which the pay of officers and re-

* Let any man, who enjoys high standing and character in society, and is blessed with affluence and education, ask himself what security he has that, if placed in the miserable condition from which these convicts were taken, he would have been more honest than they; and whether he can be sure that he would have resisted, under like circumstances, the temptations which were too powerful for them?

pairs was $12,011:99, and the deficit paid by the State was $11,271:61.—Thus it appears that the expense to the public has in no year been equal to the repairs and pay of the officers; and that the labour of the convicts over and above paying the expense of their own support has, during four years, paid the sum of $12,791:99 towards defraying the expense of the officers of the Institution.

If it be deemed proper to examine the actual expense, it will be found, that during the four years ending on the 30th September last, the State paid $29,693:41, or an average of $7,423:35 per annum, as well for the support of the convicts as for all other expenses of every kind and description attending the maintenance of the Institution and its officers. During this period there were kept in confinement an average of 325 convicts.* This sum makes an average of forty-four cents per man. Now, by a law passed 15th June, 1821, the expense to the Commonwealth for the maintenance of State paupers is fixed at ninety cents per week each. The keeping of a convict in the State Prison costs less than half the keeping of a pauper, although the sum paid for the latter by the State is not thought to be equal to the amount actually incurred.

By a law passed February, 1820, one dollar per week is allowed for the keeping of prisoners in the County Jails. A convict in the State Prison costs therefore less than half the charge of a culprit in the County Prisons, where all habits of industry are lost in the most profligate idleness.

During the three years ending in 1821 the cost of the food of a convict was $6\frac{1}{4}$ cents per day, and the cost of his clothing about 12 dollars per annum. The burthen of the expenditure is for fuel, bedding and pay of officers.

In the year 1822 the actual charge on the Treasury was $11,271: 61, and the number of convicts averaged only 274, the highest number being 282 in October, 1821, and the lowest, in February, 1822, being 268.

Upon this matter it is to be remarked, that the expense does not depend on the number of the convicts. The Institution is provided

* The highest number at one time was 372, the lowest 268. For two years the number exceeded 300. This day [Feb. 12th, 1823,] there are 301 prisoners.

for about $50; the guards, fuel and arrangements, which are required for that number, must be required, with little diminution, for 50 or 100 less. The mere food and clothing of 100 men would not cost above 10 dollars per day, while their productive labour would be 20 or 25. The permanent expenses remain whether the number be more or less. But the chief reasons of additional expense are the weakness and removal of the walls, by which extra guards were required day and night, and the provisions of the act of February 23, 1822, which altered the mode of supplying materials and of letting out the convicts, and increased the expenditure while it diminished the receipts of the Institution.

It is surely not the intention of the Directors of the Prison, who are but agents to carry into effect the will of the Government, to find fault with any law which the Legislature in their wisdom may think proper to adopt; but they may be permitted to express their surprise, that after enacting a statute, whose obvious and unavoidable tendency was to increase the burthens of the Treasury, on account of this Institution, any wonder is excited that these burthens are unusually heavy.

The Legislature have adjourned without altering or amending this statute, as was proposed by the intelligent Committee appointed to inquire into the concerns of the Prison, and the consequence must be, that the Prison will this year cost more than the last, and must continue to increase in expense to the public, until some of the sections of that law are changed.

If this act made provision for the reformation of the convicts, it would be some compensation for the loss, which it brings on the public; but we are fearful that it will be found to diminish the chances of reform, while it fixes the certainty of expense.

The provisions of this act require, that all supplies should be furnished by contract. However excellent and impartial this mode may be in the great concerns of an army or navy, where the magnitude of the expenditure invites competition; it is wholly inadequate to the comparatively small concerns of the State Prison. It has accordingly been found that, with the exception of the meat and one or two large articles, few proposals are made for other supplies, and those at an advance of the customary prices. But the law is imperative that the best offer, however extravagant, shall be accepted. It intrusts nobody with any discretion!

Beside this evil it destroys all barter trade, by which heretofore much profit has been made. Prisoners are often engaged from necessity in work of dull sale. They must be employed. If profitable labour does not present itself, they must do something of less value. The result of this is a variety of manufactured articles, which may be usefully bartered for others of necessity in the Prison, but which, when forced on a cash sale, as now they must be, turn out very badly.

The act provides, that the labour of the prisoners shall be let out for a year only.

This is a discouragement to contractors, who take these men on the principle of apprentices, ignorant and useless at first, but to be taught and become profitable. They will not take them with the chance of losing their labour by being overbid in a twelvemonth.

The great obstacle to profit has always been want of suitable work; and any thing which augments this obstacle, diminishes the profit, and embarrasses the Institution.

This part of the act probably grew out of a petition presented to the Legislature by sundry persons, complaining that the labour of the convicts was monopolized, and their work undersold in the market. How little foundation existed for such complaint, may be seen by the fact, that when proposals were to be received for the hire of the men, not one of these petitioners presented a single proposition.

In truth, there have always been more labourers than hirers; and the low price of their time has not been a sufficient inducement to procure a demand.

The act provided a limitation on the articles procured for the subsistence of the convicts, and by its terms prevented them from receiving any other drink than water.

Hop beer had for many years been allowed in summer time, not so much by favour as necessity. At that season the wells of the Prison are low, and the water impure. Drinking this water alone generates disease, prevents work, and crowds the Hospital. Such was the case the last summer. At that season labourers in the stone shed earned for the Institution 60 or 70 cents per day. Beer would cost about one cent per man. It was refused—they became sick, and the State lost their services.

The Directors, aware that this would probably be the effect, required early in June the opinion of the Physician, and on the 5th inst. received the following communication from him:

Massachusetts State Prison, Hospital Department, June 5, 1822.

TO THE DIRECTORS.

GENTLEMEN,

Within a few weeks past, an unusual number of the prisoners have been taken sick, some with complaints of the bowels and kidneys, and others with a low depressing typhus fever. In the summer of 1820 similar complaints appeared from the same cause, and could be fairly traced to the excessive use of the water of the Prison wells, which in a dry time, when the springs are low, is very bad. The evil was cured then by allowing the prisoners hop beer, a measure as politic as it was humane; for it at once restored them to health (thereby giving the State the full benefit of their labours) and to cheerfulness, which is of vast importance in the moral view of the subject. For men who are sensible of a beneficent regard to their health and comfort, feel better dispositions and perform more work willingly, with less expense of constitution, in the same time, than those miserable wretches, who feel daily exhausted by severe labour, without adequate support of spirits and strength. To allow beer to all the prisoners would in my opinion be wise and humane; but to the labourers in the stone shed, it is absolutely indispensable; the very existence of this department depends upon it. The place where they work is exceedingly warm, and the atmosphere is so constantly filled with fine dust, that some nourishing drink is required to repair the waste of transpiration, and to wash out the internal cavities. The hop being bitter, aromatic and astringent, is preferable to any other article to sustain and defend the stomach, to maintain the regular functions of all the organs, and thus to support, invigorate and preserve the spirits and strength. Water will not do; the quantity used depresses the great central organ or main-spring of life, and infallibly brings on relaxation, irritation and exhaustion. Some melancholy examples of the fatal consequences of this course can be furnished from the records of the Hospital.

I am convinced, gentlemen, that the attention of the Government should be called to a subject which involves most important interests of the Massachusetts State Prison,

And am, &c.

ABRAHAM R. THOMPSON,

Physician of the Massachusetts State Prison.

This letter was immediately transmitted to his Excellency the Governor, in hope that the Legislature, then sitting, might

modify the law. But nothing was done. An epidemic was apprehended from the want of this trifling article, and the Physician addressed the following letter to the Warden on the 18th of July:

> From a careful examination of the state of the prisoners at the present time, I am of opinion, that it is necessary to allow them beer for their drink, and do accordingly direct that beer, composed of hops, ginger and molasses, be prepared and furnished to them immediately.

On this requisition a majority of the Board convened and directed that such beer should be supplied.

The order was probably delayed longer than economy would authorize; and the delay certainly increased the expense. But the indulgence, imperious as were the circumstances that demanded it, long as it was postponed, and reluctantly as it was granted, has been gravely charged on the Board of Directors as a crime, as well before his Excellency the Governor and the Honourable Council, as in the House of Representatives.

It is not material to their purpose, to set forth the perfect approbation, which their conduct in the emergency of the case received from the Supreme Executive; but it is introduced to shew, that the restraints on the free exercise of a sound judgment in the immediate officers of the Prison, by the positive injunctions of law, have tended and will tend to the aggravation of expense, and to demonstrate the futility of expecting to make the Prison pay its own expenses, when the means of keeping the convicts in health are denied. If the article of beer is considered an indulgence, inconsistent with punishment and reformation, then they who pursue these objects are the last who ought to complain of the increased cost of the Institution.

The Hospital Department, and the extensive accommodation made for the sick, are charges on the Institution, which it is not believed the humanity of our citizens would ever permit to be discontinued.

Most convicts come with disease; and the short sentences of many hardly do more than render the Prison a hospital, in which they can be cured and depart. Such should either not be sent at all, or the expense of maintaining them should not be a subject of complaint.

Others unquestionably deceive the acuteness of the Physician, and are excused from labour when their sickness is mere pretence.

But this infers no blame. In a late report of a Committee of the Honourable Council on this subject, it is remarked, "The "Physician is emphatically an officer of humanity. The symptoms "of disease are sometimes so equivocal, that however skilful the "Physician, he may be at a loss for a time as to the true character "of the malady, or whether the patient is seriously indisposed or "not, and must therefore be allowed to presume much on the con-"vict's own statement of his sufferings, although his word on "other occasions may not be entitled to much credit.

"The maxim, so long held sacred in the administration of crimi-"nal justice, that it is far better ten guilty persons should escape, "than that one innocent should suffer, appears to countenance the "opinion, that ten convicts should be unnecessarily indulged with "the privilege of hospital treatment, than so rigid a rule should be "adopted for admitting patients, that one who really requires medi-"cal aid should thereby be excluded, and suffer or die for want of "such aid."

These are the sentiments of a very liberal kindness; but their indulgence is not likely to diminish expense.

Having remarked on the amount of the pay roll and the expense of the officers, it may be proper to take some notice of the existing establishment in this respect.

There are now three Directors, who receive each $300 per annum,	$900 00
A Physician and Chaplain, $250 each,	500 00
A Warden,	1500 00
A Commissary, acting also as Clerk,	950 00
A Keeper,	500 00
3 Turnkeys, $350 each,	1050 00
18 Overseers, $250 each,	4500 00
3 Female Domestics in the House,	237 00
Night Watch,	644 00
	$10,781 00

The sum of ten thousand seven hundred and eighty-one dollars is the present actual amount of the yearly pay roll, besides a commutation in money for rations established by the Legislature in February, 1822, for the Keeper, Turnkeys and Overseers, and amounting to $2340 per annum, making the yearly charge for the pay of the government and the rations of those who are entitled to them, $13,121.

The effective force of the Prison, on which to rely for its security against violence, consists of the Keeper, Turnkeys and Watchmen, and two Aids in the night, being in all twenty-four men. There being a constant guard necessarily preserved by day and night, this number has not been found more than sufficient for the security of the Prison in its present state. It is presumed the emoluments allowed by law are not extravagant.

Higher wages must be paid here than elsewhere, because the trust and confidence reposed in the Watchmen and Guards are necessarily very great, and the association with convicts by no means a pleasant employment. Men of competent character must be allured by additional reward.

The Keeper is at the head of the internal force of the Prison, is charged with the safe keeping of the convicts, and made responsible for the fidelity and attention of his subordinate officers; and the Directors are bound to say, that the present Keeper, who has been in the service of the Prison from its first establishment, has always deserved their highest confidence, and uniformly received their approbation. He resides in the Prison with his family, and is not permitted to be absent when the prisoners are in the yard. On the care and attention of this officer, if he does his duty, the security of the Prison may safely be trusted.

The Physician, Chaplain and Commissary have nothing to do with the government. This last officer, being also Clerk, has the entire charge of the books of every description, and must be active, intelligent, and capable of discharging the responsible duty intrusted to his charge.

The legislation of the Prison, if it may so be expressed, is confided to the Directors. They are intrusted with the appointment of the Keeper and all inferior officers, defining their powers, prescribing their duties and fixing their compensation; making by-laws

for the government of the Warden and all other officers and agents, for the maintenance, employment and instruction of the convicts, for the purchase of all materials, implements, provision and clothing; directing the manner of keeping, and from time to time examining the books; and are required to hold a meeting once a month and to visit by turns three times a week at the Prison.*

These multifarious duties comprise, as they were intended to, the whole charge and superintendence of the Institution. The collation of information and the revision of judgment become more satisfactory when they are the result of three minds than of one; yet in vigour of execution nothing is lost by numbers, as the records of the Directors do not for several years shew a single instance of any material difference of opinion.

The law provides also for the appointment of a Warden, but without assigning to him any material duty; and places him between the Directors and the Keeper in a manner that interferes with the duties of both, without being able to benefit either.

So far as the safe keeping of the convicts depends on direction and by-laws, this officer has no authority; for that business is the express duty of the Directors: and so far as it depends on personal inspection and activity, he has no means; for he may be absent on the most important crisis; he can know nothing at the time of difficulties that are constantly arising, and which are to be settled at the moment.

The statute provides, that he shall *receive* such persons as are convicted, which reception is in truth made by the Turnkey who changes their clothes, or the Clerk who registers their description and name.

He is to serve process within the Prison, of which perhaps five cases have occurred within fifteen years. He is to remove prisoners to Charlestown from the County Jails by himself or his Deputy; but the officer who does in fact perform that duty may as well be called a Deputy Keeper as a Deputy Warden.

He receives all money for the use of the Prison, and gives bond to account for it; but the Commissary, who in fact expends it, might under the Directors be required to give such bond, and ac-

* Massachusetts Laws, 21st June, 1811.

count accordingly. He was intended to be Commander of the Military Guard, but the guard is disbanded. He is to make sale of manufactured articles, once a great branch of business, but long since discontinued, never to be resumed.

These are all the duties, which the law ever supposed the Warden could perform. They have devolved on other officers, who perform them with ease, and leave this gentleman without any appropriate employment.

The Directors do not therefore believe that the appointment is any longer desirable, and are confident it might be abolished without the least danger to the Institution.

The pecuniary saving would be only a part of the benefit. A division of responsibility destroys all security. If an accident occurs from want of vigilance, the Keeper refers to the Warden, and the Warden to the Keeper; if it arises from want of intelligence and foresight, the Directors lay the blame on the Warden, and the Warden on them. In fact this officer is a middle point between all the others, and can do nothing without interfering with the appropriate duties of another department.

So well satisfied of this were the Commissioners in 1819, that they proposed to invest him with the duties of Commissary and Clerk, conceiving that there was not provided for him by law any useful and peculiar employment.

The Directors do not hesitate to declare their long settled opinion, that the office is useless, and that its expense may well be saved to the Institution; and they say this from no ill will or personal hostility to the officer. They can excuse the occasional appropriation of his leisure to their own multifarious duties. The majority of this Board have always been and still are on terms of friendship with the present incumbent; and have not on any occasion had any personal disagreement with him.

Some other officers may probably be dispensed with. A spirit of insubordination among a class of old convicts, excited by temporary causes, made it prudent to increase the effective force of the Prison; and the removal of the stone wall rendered more guards necessary in that quarter. When these causes shall have ceased the number of officers may be diminished.

Having said thus much with regard to expense, it is proper to add something on the other great objects of the Institution. A Penitentiary implies in its terms a place for the reformation of criminals.

The buildings at Charlestown were erected before accurate ideas had been obtained of the wants of such an establishment, and are not well contrived for the object. There are no cells for solitary punishment for any length of time. Those intended for that purpose would destroy the life of a convict, or his health at least, if he was kept there for any considerable period. The laws, passed on the erection of the Prison, authorize six months solitary confinement in some cases, and a year in others; but the sentences of the Courts are rarely more than ten days, and usually but five or six.

Classification, with a view to reformation, is impossible, and has never been attempted. It is true a law provides for the division of convicts into three classes, but this is a measure of finance and not of morality. It does not relate to the past out-door behaviour of the convict, or the hope that may be obtained of amendment, but solely to his present conduct in the Prison and the results of his labour. It provides* "That the Directors shall, as soon as may "be, divide and arrange the convicts into three general classes, as "they shall be distinguished by their behaviour and merit in regard "to cleanliness, sobriety, submission, respectful deportment towards "the officers, and *industry and faithfulness in their work.*"

Now it is manifest, that classes so arranged may contain the young and inexpert offender and the hardened and irreclaimable rogue; the novice and the adept in villainy.

But the statute further provides, that "All convicts, on entering "the Prison, shall be placed in the third class, from which they may "be advanced to the others at the discretion of the Directors on the "recommendation of the Warden."

This clearly defines the object of classification not to relate to past manners or character; for good and bad must herd together for a time in one class, until their industry, faithfulness and deportment towards officers (that is, their conduct in the Prison) shall produce an advancement.

* Statutes of Commonwealth, Chap. CLXVI. of 1818.

It is necessary to note this provision of this law, because it has not been so understood even among members of the Legislature, although its phraseology admits no different construction. At the recent visit to the Prison of a very respectable Committee, one of its most intelligent members made various inquiries tending to express surprise that convicts of different classes were in the same rooms, at the same benches, and engaged together in the same work. If the classification had been made from any regard to the hope of contrition and amendment, this would be manifestly improper. But while, by the directions for classification enjoined by the Legislature, men of very different habits may well be in the same class, there can be no reason for separating them in the yard and work-shop.

The obstacles in the way of carrying the theory of a penitentiary into operation have not prevented the immediate government from using with care what advantages they possess.

Education has been attended to. Boys and young men, who could neither read nor write, have been well instructed in these rudiments. Moral and religious information has been perseveringly disseminated, and advantage taken of those moments of tenderness, of which all are susceptible, in order to produce an effect. Mechanical trades have been taught, and many, who came here because they had no honest means of living, have procured the knowledge, which enables them to live without violating the laws.

By long confinement the associations, which led first to temptation and then to vice and crime, have been broken up; and men have gone back to the world unfettered by those connections, which entangled them in misery.

Good feeling is increased, amendment promoted by the influence of those affections, which men entertain for their families and friends, and which the regulations of the Prison have been calculated to encourage. The rules for over-stint work, if they have sometimes allowed convicts better fare than the usual Prison diet, have enabled them to earn something for their families. These have been kept from pauperism, and the connection has laid open a way for amendment.

Few men are wholly abandoned. There is a chord which, if rightly touched, vibrates to the heart. When this is found and put in tune, the felon is reclaimed for society. He no longer feels him-

self abandoned as an outcast. He may by this be once more brought back to the family of mankind.

Whatever, in the internal regulations of the Prison, have the appearance of indulgences are permitted with this view. They are not many nor expensive, and we cannot doubt have been attended with good effect. With the same object the Supreme Executive has extended its prerogative of pardon, and the occasional and limited number of these dispensations have greatly tended, as we doubt not, to produce a spirit of order, submission and tranquillity, which in the end has produced reformation.

Of the results of this system, which the Directors do not claim the merit of originating, as it has been steadily pursued by all their predecessors, it is impossible to speak with certainty.

From the commencement of the Prison in 1806 to this day, (12th Feb. 1823) there have been received sixteen hundred and fifty-nine convicts. Three hundred and one are now in confinement. If half the balance are dead, there would remain between six and seven hundred abroad in the world, and less than two hundred have been known to this Institution to have received a second sentence. Of the whole number now in Prison, two hundred and six are there for the first time. Several years since a list of those who were known to have behaved well after imprisonment contained forty-five names; as many more might now be added.

During the past year there have been some audacious instances of violence and insurrection, and one horrible murder. But these, as appeared after careful examination, were the acts of a very few depraved and desperate villains, and by no means the evidence of extensive or general insubordination. On the contrary, at different times, the Government of the Institution have received material aid from the convicts in putting down the lawless violence of individuals.

The Chaplain speaks in encouraging terms of the increased attention which is paid to his instructions; and it is certainly a fact, that between thirty and forty have for many months voluntarily attended morning and evening prayer, and made some personal sacrifice to obtain the time from their tasks necessary for this indulgence.

It is not for the Directors to judge of the sincerity of these acts of devotion. The convicts of a Prison are not a class, from whom

are to be expected any unusual marks of religion. But, whether serious or pretended, it is certainly to be testified in their favour, that thus far it has had a beneficial influence on their manners, deportment, industry, fidelity, and example; and their actions correspond to the hopes, which such serious engagements ought to inspire. God alone can judge the heart.

One of the most embarrassing circumstances attending the government of the Prison is the vascillating and contradictory opinions, which prevail with respect to it.

The subject of punishment for crime is one, on which most people have thought something and very few profoundly. Each man has his own theory, and each successive Committee of the Legislature its own favourite plan. The adoption of one will give no certainty that its successful prosecution will be acceptable, or that it can be fairly put in practice before a different one will be substituted. Opposite and conflicting expectations are entertained by different individuals, and often by the same individual.

At one time it was supposed not only that the Prison should support itself, but reform every tenant of its walls; and that this wonder-working power was of such miraculous rapidity, that one or two years' confinement (which is the average sentence of the convicts) was sufficient for the purpose! Can it be necessary to say that when a profligate, idle, depraved and often diseased criminal is sent here for only one or two years, there can be no hope of his reformation, and no profit from his labour? The cronic disease of the mind, which half a century has incorporated with the constitution, cannot be eradicated as easily as a stain from the surface; nor is it possible to teach any useful mechanic art to a weak and ignorant felon, and derive any profit from his service, within a period too short for an active freeman to acquire competent skill.

By some it has been urged, that extreme severity is the appropriate mode of government. This opinion avows, that convicts should be harshly treated, coarsely and scantily fed, and hard worked; and it is expected too, that they pay their own way. Holding them in abhorrence, it considers any thing appropriated to their advantage as not only lost, but absolutely squandered.

Contradictions and impossibilities like these are soon rectified by any the least practical acquaintance with men in a prison. They are the cobwebs of speculation, which actual motion in the work-

shops soon brushes away. If a man works, he must eat. The bone, blood and muscle, which operates upon granite, is not generated in the human system by bread and water; and if actual confinement and constant monotonous application without personal reward, if solitary seclusion, the rough and disgraceful dress, the hard fare, and the miserable comforts of a cell, are not severe enough to be considered punishments—it is impossible, we think, to make any thing such without a violation of all humanity.

The idea entertained by some men, who sit quietly over a fire or round a luxurious table on a cold winter day, that the State Prison is not severe enough in its punishments, does not so often shew an insensibility of feeling, as an ignorance of fact.

A convict is received under order of Court, stripped of his clothing and dressed in the livery of disgrace; his hair is cut, and he is put for a period of time into a cell, where no sun ever shines, nor even a wandering moon-beam finds its solitary way. He is cut off from intercourse with society. He lives for twenty-four hours on eight ounces of coarse bread, with enough water to allay the fever which runs through his veins. He is removed into the workshops, and pursues a constant and laborious occupation for others' benefit in the condition of a slave.

The common excitements, which make labour endurable, the solace of home, family, friends, are denied him, and a painful, tedious, dull uniformity of suffering returns with every morning of his servitude.

The acuteness of misery is seen by constant efforts to escape. Ingenuity has no resource which is not exhausted. Art, subtlety, contrivance, in every form which necessity the mother of invention can contrive, are daily resorted to. Daring and desperate efforts, almost without the possibility of success, in the face of armed men, and on the point of the bayonet, are made in defiance of all calculation in the frenzy of passion to escape. Nor is this the only evidence of their wearisome situation. Submission, supplication, abject and prostrate humility witness the oppression of their spirits and the dejection of their minds. Men of firm nerve and haughty temper, of high pride and indifference to ordinary suffering, bend and bow and lay in the very dust at the feet of the authority of the Prison, for permission only to ask for pardon, and pour out to the Government their earnest entreaty to be liberated.

This is the evidence of demonstration, that their punishment is no idle menace, no soft and lulling soporific, as sometimes it is thought to be. When these gnarled and knotted spirits break, bend or bow in abject degradation and humility, and condescend to supplicate for favour, where is the stoic, who can smile in derision at their complaints, or be willing to add more weight to their burthen ?

It is said, and said truly, that they do not work as hard as free mechanics; but it is forgotten to be added, that they fare worse, and are necessarily less able both in spirit and body.

It is said, and said truly, that they generally, to common observers, appear quiet, peaceable and contented. But the observer forgets or is ignorant of the elastic and moulding temperament of the human mind; how soon it conforms itself to circumstances; how readily it accords to its situation, when it cannot conform its situation to its wishes. Wretches have been known to sleep on the rack. Baron Trenck was sometimes cheerful, and the tenants of the Bastile have softened their misery with a smile.

The Directors profess therefore to believe, that there is in confinement within the State Prison a reasonable severity of punishment, and sufficient for a salutary operation on the mind of the criminal.

It is objected that if this were true, convicts would not return. But this, we think, is founded altogether on a misunderstanding of the human mind.

Punishment alone will not deter from a repetition of offence. The heart must be cured, or the actions will be depraved. Terror may do something; but it is not a sufficient preventive of crime. If the State Prison should be made an inquisition, where the wheels and the racks and the pincers of inhuman cruelty should be in constant operation; or if, with more disposition for wretchedness, it should realize the fiction of Tartarus; if it should roll one convict on the wheel of Ixion, and set others to raise the recoiling stone of Sisyphus; if the toil of the Daughters of Danaus should be revived, and the eternal vultures of Tityus forever lacerate its victims; all these horrors would not prevent the repetition of crime. The terrors of future judgment and the awful denunciations of eternal misery are insufficient to prevent the commission of iniquity. A man, who is habituated to any vice, as for instance to in-

toxication, loses the fear of its consequences, though every day realizes them in this world, and sounds louder the misery they are preparing for the next. The gamester revels at his cards, though ruin threatens his family as well as himself. Danger is no bar to enterprise, nor punishment to iniquity. Reformation must be obtained by address to the judgment and an influence on the heart; and they who expect that severity will prevent crime, will be as constantly deceived as the human mind shall remain on its original principles. The return therefore of convicts to the State Prison is no evidence, that they were not made severely to suffer when before within its walls.

But the system is incomplete, and therefore the evil complained of necessarily occurs. Convicts are discharged who have no friends, acquaintance or money; or who, by being known as convicts, are avoided as infectious and driven by necessity to commit new crimes.

They are willing to labour, but can get no employment; and cannot consent to starve, even at the hazard of renewed imprisonment.

Some arrangement is required to put such men on the road to honest employment. A penitentiary is essentially defective if it casts its tenants into the world, feeble, helpless and exposed to temptation, with no means of resistance.

When such men return it is no evidence that their former confinement was no punishment, but that an injudicious regard to economy has involved the public in new expense, and exposed an unfortunate criminal to additional and often unnecessary suffering.

There are objections made to the government of the Prison of an opposite character. It is said, not that convicts do not work enough, but that they work too much; that their labour is produced at an under rate, and rivals the fair trader in the market of consumption.

This, if it had not derived countenance from the Legislature, need hardly be noticed. The law provides a sentence to *hard labour;* and the hard labour of two or three hundred men can have but little influence in the great market of the State.

But the statute of February, 1823, already noticed, interferes so essentially with the productiveness of labour, as to give force to this objection. It can however only be necessary to say, that the

obligation to confine convicts to hard labour still continues; the embarrassment of providing it is increased; and the necessary and obvious tendency of these two principles is not to diminish the labour, but to increase the expense.

These, and other dissimilar and conflicting opinions, are maintained by individuals, and alternately prevail in Committees appointed by the Legislature to examine and report on the concerns of the Prison; and hence gentlemen decide on the situation of that Institution, not according to the success of the plan adopted by the immediate government, but according to their own contrariant opinions and favourite ideas of what the plan ought to be.

In this fluctuation of opinion, and law which often partakes of the complexion of Committees, the Directors have derived their best security, and the Prison its protection, from the steady support of His Excellency Governor Brooks, who, during his whole administration, has bestowed unceasing attention to the concerns of the Penitentiary as a subject worthy the profound consideration of the civilian, and the ardour of the philanthropist; and has encouraged the perseverance of the Directors in that joint scheme of reformation and economy, which they have professed to adopt; and which, without sacrificing any thing valuable in either, has, as far as the means granted to them would permit, obtained the chief advantages of both.

It is however exceedingly desirable, that some definite and fixed *system* for the government of the Prison *should be established by law;* that the objects should be ascertained and provided for beforehand; and that the discretion of the immediate government should be regulated by a knowledge of what is expected by the public.

Reformation cannot be promoted without expense; and economy is at war with reformation. A reasonable degree of both may we think be obtained; and the expense will increase or diminish as one or other of these objects receives the greatest share of attention. The Prison, which last year cost $11,000 may, by a repeal of the law of 1822, and by other arrangements to promote the labour of the convicts, be maintained for much less expense; but by preserving that law it will cost as much as before; and by sacrificing profit to improvement it may become a double charge to the community.

Enough has been done by way of experiment. We can ascertain the cost to a few dollars. The guage is complete, and the

duty of the community is to fix its line. Let then the Legislature say what sum under all circumstances they will appropriate to the support of the Institution, and what sum they will expect it should realize for itself. Let this be prospective for a few years, and any thing like a liberal appropriation need not and should not be exceeded.

This will put the staff in their own hands. They will not then be obliged to pay for an indulgence they do not think society requires; or be prevented by the economy of their agents from a liberality of appropriation to cover the moral wants of society.

Let them understand the principles upon which the Institution rests, and make their calculation of expenditure as wisdom and justice and a regard for public manners may seem to require.

In the By-Laws and Regulations, which are subjoined, the Directors have provided for carrying into effect the objects which they have endeavoured to elucidate; and while they feel the importance and responsibility of their trust, and are desirous of meeting the expectations of the public; it nevertheless will be their first object, so long as they have the honour to hold their present situation, to conform the Institution under their care to the foregoing principles, which, according to the results of their experience and observation, will produce the only practical and beneficial operation of this important Establishment.

JAMES T. AUSTIN,
ELIAS PHINNEY,
JOHN SOLEY,
} *Directors.*

Massachusetts State Prison,
Directors' Room, 12th February, 1823.

LAWS

ESTABLISHED BY THE LEGISLATURE

CONCERNING THE

Massachusetts State Prison.

An Act providing for the Government and Regulation of the State Prison.

Section 1. Be *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That criminals convict, sentenced to confinement to hard labour, for life or any other term, or to solitary imprisonment and hard labour, shall and may be imprisoned, restrained, and employed in, and within the precincts of the State Prison, situate in Charlestown, in the county of Middlesex; and the Court before whom such conviction may be, are hereby authorized and empowered, by warrant under their seal, directed to the Warden of said Prison, to cause all such convicts, as soon as conveniently may be after sentence, to be removed from any gaol in the respective counties of the Commonwealth to the State Prison, and the said Warden, and all Sheriffs, and Keepers of the gaols, aforesaid, are hereby required strictly to observe and obey the directions contained in any such warrant: and it shall be the duty of the Clerk of any such Court to make out such warrant as soon as may be, and to deliver the same to the Sheriff of the county where such conviction may be, who is hereby directed to cause the same to be transmitted and delivered to said Warden, who shall, by himself or such person as he may appoint for that purpose, forthwith cause the same to be executed and returned, pursuant to the precept thereof.

SECT. 2. *Be it further enacted*, That it shall be the duty of said Warden to receive such persons as may be convicted before any court of the United States, at any term thereof, holden within this Commonwealth, and sentenced to confinement and hard labour by any such court, and all such convicts safely to keep, pursuant to their sentence, until they shall be discharged by due course of the laws of the United States.

SECT. 3. *Be it further enacted*, That the Governor, by and with the advice and consent of the Council, be and hereby is authorized to appoint and commission, during pleasure, a suitable person as Warden of said Prison, who shall have the care, custody, rule and charge of the same, and of all persons confined therein, and of all lands, buildings, machines, implements, tools, materials, stock and provisions, appurtenant or belonging to the same, or the precincts thereof. And it shall be his duty to serve, execute and return all process within the precincts of said Prison, and such process shall be directed to him accordingly. And he shall also be commander of the military force for guarding said Prison. And he shall be Treasurer of said Prison, and receive, pay out and be accountable for all the money granted for maintaining the same, or derived from manufactures, and all other concerns of the Prison; and he shall cause regular entries to be made by the Clerk, in the books of the Prison, of all the pecuniary and other necessary concerns of the establishment; and it shall be his duty, twice a year and at the commencement of every session, to render to the General Court a fair account, examined and approved by the Directors, of all the expenses and disbursements and of all the receipts and profits on account of said Prison, and a statement of its general affairs. And the said Warden shall give bond to the Commonwealth in the sum of twenty thousand dollars, with sufficient surety to be approved by the Governor and Council, and upon condition that said Warden shall faithfully perform all the duties incumbent upon him as Warden of said Prison.

SECT. 4. *Be it further enacted*, That the Governor, by and with the advice and consent of the Council, be and hereby is authorized to appoint and commission, during pleasure, three discreet persons to be Directors of the State Prison, who shall have power, from time to time to appoint during pleasure all such officers, agents and servants as they may deem necessary for the well

ordering, upholding and maintaining of the State Prison; to define their powers, and prescribe their duties, and to ascertain and fix their compensations; to make, ordain and establish all such rules, by-laws, orders, and regulations, not repugnant to the laws of the Commonwealth, as they may from time to time see fit, for the government and direction of the said Warden, and all other officers, agents and servants of said Prison, and as may be proper for the maintenance and instruction of the convicts,—and for the purchase of all materials, machines, tools and implements, provisions, medicines, and clothing for the use of the officers, and for the use of the convicts,—and for the sale and disposition of any articles, tools and manufactures which belong to said Prison;—and they have the sole and exclusive power of *directing* all matters and things relating to said Prison, the officers, agents and servants thereof, and all convicts therein, and as to the manner of keeping the books and accounts of said Prison, which books and accounts it shall be their duty from time to time to examine. They shall have power also, with the approbation of the Governor and Council, to make such additional buildings or alterations, within the bounds of the Prison, as they may deem necessary. And said Directors shall cause a copy of all by-laws, rules, orders and regulations, established by them, to be laid before the Governor and Council, at the next meeting after the adoption thereof, who may annul the same, or such parts thereof as they may think proper. And it shall be the duty of said Directors to meet together at the Prison statedly, once at least in every month, to attend to and inspect the concerns of the Prison, to cause a *record* to be kept of their doings, and by turns to visit the Prison at least three times in every week, for the purpose of seeing that the laws and regulations are duly observed, and of attending to the various concerns of the establishment.

Sect. 5. *Be it further enacted*, That the Governor, by and with the advice of the Council, be and hereby is authorized from time to time to draw his warrant upon the Treasurer of this Commonwealth, in favour of said Warden, for such sum at any one time as they may deem proper, for all monies which may be appropriated by the Legislature for the support of the State Prison. And the Governor and Council for the time being, with the Justices of the Supreme Judicial Court be and hereby are constituted visiters of the State Prison, and it shall be their duty annually, and as much

oftener as they may think proper, to visit the Prison, and to see that all laws and resolutions, by-laws and regulations made for the government and upholding said Prison are duly observed and executed; and the Governor and Council are further from time to time authorized to raise, appoint and employ a military guard, to consist of such officers and privates as they may deem requisite for the safe keeping and employment of the convicts.

Sect. 6. *Be it further enacted*, That if any Director, the Warden, or any other person employed in the State Prison aforesaid, shall fraudulently contrive, procure, aid, connive at or otherwise voluntarily suffer the escape of any convict therein committed under sentence of confinement as aforesaid, every such person on due conviction thereof in the Supreme Judicial Court, shall and may be punished by solitary confinement for a term not exceeding one year, and by confinement to hard labour, for a term not exceeding twenty years at the discretion of the said Court.

Sect. 7. *Be it further enacted*, That if the Warden or any other person employed as aforesaid, shall negligently suffer any convict committed and in custody as aforesaid, under sentence of solitary imprisonment, to be at large without the cell or apartment assigned to such convict, or to be there visited, conversed with, comforted or relieved, contrary to the rules and regulations of said Prison, or shall negligently suffer such convict, or any convict there committed under sentence of confinement to hard labour, to be at large without the precincts of the said Prison, or, contrary to the rules thereof, to be out of close confinement, the Warden or any other person so neglecting his duty in the premises, being thereof duly convicted in the Supreme Judicial Court, shall be punished by a fine not exceeding five hundred dollars.

Sect. 8. *Be it further enacted*, That if any person shall forcibly or fraudulently rescue, or attempt to rescue any convict from the custody of any officer or other person authorized or employed by any warrant of commitment as aforesaid, or from the State Prison, or from any other prison or gaol where such convict may be lawfully committed, pursuant to any sentence of solitary imprisonment, or confinement to hard labour; or shall convey to any convict in custody or committed as aforesaid, or into said State Prison, or any other prison, any tool, instrument, weapon or other aid, with intent to enable such convict to escape, or to procure the escape of

any convict, whether such escape be effected or not, every person so offending, being duly convicted thereof before the Supreme Judicial Court, shall and may be punished by solitary imprisonment not exceeding one year, and by confinement to hard labour not exceeding ten years; or, at the discretion of the said Court, may be punished with a fine not exceeding five hundred dollars, and by binding to the good behaviour for a term not exceeding three years, according to the nature and aggravation of the offence.

Sect. 9. *Be it further enacted*, That if any convict committed to the said State Prison, under sentence of confinement to hard labour during life, shall assault any Director, the Warden, or other person employed in the government thereof, or shall forcibly attempt to break from the said Prison, every such convict, so offending, upon due conviction before the Supreme Judicial Court, shall and may be punished by solitary confinement not exceeding one year, at the discretion of the Directors, and shall be afterwards there holden in custody upon such former sentence; and every person being under confinement as aforesaid, who shall escape from said Prison, shall, for every such offence, be further sentenced to solitary imprisonment for a term not exceeding twelve months.

Sect. 10. *Be it further enacted*, That if any convict committed to said State Prison, under sentence for a limited time, shall assault any Director, the Warden, or other person employed in the direction or custody of said State Prison, or shall attempt by violence to escape therefrom, every such convict, so further offending, upon due conviction thereof before the Supreme Judicial Court, shall and may be punished by solitary imprisonment not exceeding one year, in addition to any former like sentence, or to precede the fulfilment of any former sentence to hard labour, as the case may be; and, at the discretion of said Court, may be further punished by hard labour, for a term not exceeding ten years, to commence after such solitary imprisonment, or after any former sentence shall be fulfilled, as the case may be.

Sect. 11. *Be it further enacted*, That the Warden of said Prison shall have power to appoint a Deputy to execute any process to him directed, which Deputy may serve and return the same accordingly, and for whose acts and doings his principal shall be answerable, but such Deputy shall be further liable to such punishment as the Deputy Sheriffs are now liable to suffer for any mis-

conduct in executing process. And the said Warden shall not be arrested upon mesne process, or upon any execution awarded upon judgment in any civil action.

Sect. 12. *Be it further enacted*, That the Warden aforesaid shall receive one thousand five hundred dollars annually in full compensation for all services by him rendered in that office, without any other support or maintenance whatever, and the Directors aforesaid shall receive the sum of three hundred dollars each, in quarterly payments, in full compensation for their services respectively.

Sect. 13. *Be it further enacted*, That from and after the first day of August next, the act entitled "An act providing for the regulation of the State Prison in Charlestown," passed the fourteenth day of March, in the year of our Lord one thousand eight hundred and six, be, and the same is hereby repealed, saving always that all acts, matters, and things done under and pursuant to said act, shall remain as good and valid. And all Officers, Agents and Servants of the same Prison, who have been appointed or employed under the same, shall remain in their respective offices and places, until that time, and until others are appointed and employed in their places, in the same way and manner they would have done, had not this act been repealed.

[Approved by the Governor, June 21, 1811.]

An Act in addition to an Act providing for the Government and Regulation of the State Prison.

Section 1. **Be** *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all contracts relative to the employment of the convicts within the said Prison, and for the supply of any articles of food or manufacture within the same, shall, with the approbation of the Directors, be made by and with the Warden of said Prison for the time being, and with his successors in office, and any such contract may be prosecuted to final judgment and execution, in the name of said Warden; and if, during the pendency of any such

suit, the Warden should die or be removed from office, the successor of said Warden may be admitted to prosecute the same, and such suit shall not, by such death or removal, abate.

Sect. 2. *Be it further enacted*, That the accounts of the Warden of said Prison, which, by law, he is now required to make out and render to the General Court twice in each year, and at the commencement of every session, shall be made out and closed on the last day of March, and on the last day of September of each year, and presented to the Treasurer of the Commonwealth, after the same have been examined and approved by the Directors; and it shall be the duty of the Treasurer to examine and settle the same, and keep a distinct account thereof in his office for the inspection of the Legislature; and, in addition to the other vouchers now required, the said Warden shall exhibit the receipt of the Commissary of said Prison, for all articles purchased for manufacture or consumption in the Prison, before the charges for the same are allowed.

Sect. 3. *Be it further enacted*, That the Commissary of said Prison shall, conformably to such instructions as he may from time to time receive from the Directors, receive, take care of, and account for all provisions, stores, clothing, raw materials, manufactures, and every other species of property belonging to the institution, (the furniture of the house, cells and kitchen excepted,) and enter the same in books, to be kept for that purpose, in such form and under such regulations as the Directors may prescribe; and shall issue out the same, on the warrant of the Keeper of said Prison, to the several departments, and shall deliver out to the Overseers of the workshops the raw materials to be manufactured, open accounts with each of them for the same, and receive back the articles manufactured; and it shall be his duty to inventory, weigh, mark, arrange, and have in marketable readiness the property manufactured, to receive in charge the clothing and bedding of convicts discharged from the Prison, after the same have been cleansed and made ready for future use, and generally to take the special charge of reception and delivery of all articles purchased for or used in the Prison; and, on the last day of March, and on the last day of September of each year, the said Commissary shall present abstracts of his receipts and expenditures, examined and approved by the Directors, to the Treasurer of this Commonwealth; whose duty it shall be to

audit the same, and, if correct, to approve thereof, and keep the said abstracts in his office, for the inspection of the Legislature.

Sect. 4. *Be it further enacted,* That when any female prisoner shall be duly convicted of any larceny or other crime or crimes, on which conviction such female prisoner might now, by law, be adjudged to suffer solitary imprisonment, and confinement afterwards to hard labour in said Prison, every such female convict may be sentenced to suffer solitary imprisonment only, at the discretion of the court before which such conviction shall be had, any law to the contrary notwithstanding.

Sect. 5. *Be it further enacted,* That respecting all crimes and offences committed within the State Prison aforesaid, and the precincts thereof, the said Prison and precincts shall, in all judicial proceedings, be deemed, and taken to be, as well within the county of Suffolk as the county of Middlesex; and the several courts of the said counties respectively, shall have concurrent jurisdiction over the same, and of all crimes and offences therein committed.

[Approved by the Governor, June 16, 1813.]

AN ACT IN FURTHER ADDITION TO AN ACT, ENTITLED "AN ACT PROVIDING FOR THE GOVERNMENT AND REGULATION OF THE STATE PRISON."

Section. 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That His Excellency the Governor, by and with the advice and consent of the Council, be, and he is hereby authorized to appoint and commission, during pleasure, a Chaplain for the State Prison, whose duty it shall be to perform divine service therein on the Sabbath, and on other days appointed for public worship, and also to visit the sick, and instruct the convicts in their moral and religious duties.

Sect. 2. *Be it further enacted,* That His Excellency the Governor, by and with the advice and consent of the Council, be, and he is hereby authorized to appoint and commission, during pleasure, a Physician for said Prison, whose duty it shall be to pre-

scribe for the sick convicts, as occasion may require, and also to attend to the regimen, clothing, and cleanliness of the prisoners; and whose order for supplies in the medical department shall authorize the Warden to procure the same.

Sect. 3. *Be it further enacted,* That the Chaplain shall receive one hundred and fifty dollars, the Physician shall receive two hundred and fifty dollars, and the Directors shall receive one hundred dollars each, annually, payable in quarterly payments, in full compensation for their services.

Sect. 4. *Be it further enacted,* That all acts and parts of acts, heretofore passed, which are inconsistent with the provisions of this act, be, and the same are hereby repealed.

[Approved by the Governor, March 1, 1815.]

An Act making further Provision for the Punishment of Convicts sentenced to Hard Labour, and the better Regulation of the State Prison.

Section 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That it shall be the duty of the Warden of the State Prison to cause all the regulations, established by the Directors for the government and discipline of the convicts, to be strictly and promptly enforced; and he shall give immediate information to the Directors of any failure or neglect of any officer to enforce strictly the discipline that may be established; and the Directors shall forthwith remove any officer who shall have been guilty of such neglect of duty.

Sect. 2. *Be it further enacted,* That if any convict committed to said Prison shall resist the authority of any officer, or refuse to obey his lawful commands, it shall be the duty of such officer immediately to enforce obedience, and, for that purpose, to use such weapons and such aid as may be effectual. And if such convict, so resisting, shall be wounded, maimed, or slain, by such officer, or his assistants, they shall be indemnified and held guiltless.

Sect. 3. *Be it further enacted*, That convicts in solitary confinement, in execution of the sentence of any court, or for the violation of the rules and regulations of the Prison, shall, during such confinement, be fed with bread and water only, unless the Directors, in consequence of the written certificate of the Physician that the health of such convict requires other diet, shall otherwise direct.

Sect. 4. *Be it further enacted*, That no convict, committed to said Prison, shall be entitled to his discharge therefrom until he shall have completed the full term of time for which he was sentenced, exclusive of the time he may have been in solitary confinement for any misconduct, or violation of the regulations of the Prison.

Sect. 5. *Be it further enacted*, That whenever any person, who shall be convicted of any crime, before any court competent to try the same, the punishment whereof shall, by law, be confinement to hard labour for any term of years, shall have been before sentenced to a like punishment by any court of this or any other of the United States, whether such convict shall have been pardoned or not, he shall be sentenced to solitary imprisonment, not exceeding thirty days, and confinement to hard labour, not exceeding seven years, in addition to the punishment by law prescribed for the offence for which he shall be tried; and in case such convict shall have been before twice convicted and sentenced in manner aforesaid, he shall be punished by confinement to hard labour for life, and by solitary imprisonment as is herein before provided.

And whereas, at the time of indictment and trial of any persons charged with crimes, to be punished as aforesaid, it may not be known to the Grand Jury, or to the Attorney of the Commonwealth, attending them on behalf of the Commonwealth, whether the person, so charged, has been before convicted or not:—Therefore,

Sect. 6. *Be it further enacted*, That whenever it shall appear to the Warden of the State Prison, or the Directors thereof, that any convict, received into the same, pursuant to the sentence of any court, shall have before been sentenced, by competent authority of this or any other state, to confinement to hard labour for term of life or years, it shall be the duty of the said Warden, and of the said Directors, or either of them, to make representation thereof, as soon as may be, to the Attorney or Solicitor General; and they or either of them shall, by information, or other legal process, cause the

same to be made known to the Justices of the Supreme Judicial Court, at any term of said court to be holden in Boston or Cambridge: and the said Justices shall cause the person or persons so informed against to be brought before them, in order that, if he deny the fact of a former conviction, it may be tried, according to law, whether the charge contained in such information be true. And if it appear by the confession of the party, by verdict of the jury, or otherwise, according to law, that said information is true, the court shall forthwith proceed to award against such convict the residue of the punishment provided in the foregoing section; otherwise the said convict shall be remanded to prison, there to be held on his former sentence.

Sect. 7. *Be it further enacted*, That the Directors shall, as soon as may be, divide and arrange the convicts into three general classes, as they shall be distinguished by their behaviour and merit, in regard to cleanliness, sobriety, submission, respectful deportment towards the officers, and industry and faithfulness in their work. The first class shall consist of those who are the most orderly and meritorious, and shall be dressed in cloth of the quality now used, but of one colour only; and they shall be placed in the most comfortable lodging rooms at night, and allowed the use of lights, at such time during the evening as the Directors may think proper. In the dress of the second class, the trowsers only shall be of different colours; and they shall be allowed lights, not more than one evening in a week, in the discretion of the Directors. The dress of the third class shall be that now in use; and they shall not be allowed any lights at night. And it shall be the duty of the Warden to keep the said classes separate at night, and as far as possible during the day; and they shall not speak to any person of a different class, without permission of the Warden or Keeper. All convicts on entering the Prison shall be placed in the third class, from which they may be advanced to the others, at the discretion of the Directors, upon the recommendation of the Warden; and for misconduct shall be liable in like manner to be degraded. And the Directors shall not consider an application to recommend for pardon any convict who shall not belong to the first class.

Sect. 8. *Be it further enacted*, That when any convict shall be discharged, who shall have uniformly conducted well during his

confinement, the Directors may give him a recommendation, or assist him in procuring employment, at his request, if they shall see fit. And every convict, previous to his being discharged, at the expiration of his sentence on a second commitment, shall have the letters *Mass. S. P.* and also the year in figures, when his discharge shall take place, marked on the inner surface of the upper part of his left arm, by puncturing the skin, and rubbing some colouring matter on the same.

Sect. 9. *Be it further enacted,* that the present Military Guard shall be disbanded within two months; and the Directors shall appoint such additional Overseers as they may think necessary, for the secure keeping and employment of the convicts; and assign them such duties as they may see fit.

Sect. 10. *Be it further enacted,* That so much of the third section of an act, passed on the first day of March, in the year of our Lord one thousand eight hundred and fifteen, entitled "An act in further addition to an act, entitled an act providing for the government and regulation of the State Prison," as relates to the annual salary of the Directors, be, and the same is hereby repealed; and that the provisions for the compensation of the Directors, contained in the twelfth section of an act, passed on the twenty-first day of June, in the year of our Lord one thousand eight hundred and eleven, entitled "An act providing for the government and regulation of the State Prison," be, and the same hereby are revived.

[Approved by the Governor, February 23, 1818.]

An Act in further addition to an Act, entitled "An Act providing for the Government and Regulation of the State Prison."

Be *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That so much of the third section of an act, passed on the first day of March, in the year of our Lord one thousand eight hundred and fifteen, entitled "An Act in further addition to an act, en-

titled an act for providing for the government and regulation of the State Prison," as relates to the annual salary of the Chaplain of said Prison, be, and the same is hereby repealed; and that, from and after the passing of this act, the Chaplain of said Prison shall receive two hundred and fifty dollars, annually, payable in quarter yearly payments, in full compensation for his services.

[Approved by the Governor, June 12, 1818.]

AN ACT FOR REGULATING THE SUPPLIES OF FOOD AND OTHER ARTICLES FOR THE STATE PRISON, AND FOR LETTING BY CONTRACT THE LABOUR OF THE CONVICTS.

SECTION 1. BE *it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the first day of April next, there shall not be purchased for the support and maintenance of the convicts in the State Prison any other articles of food than coarse beef, pork and mutton, lard, fish, rye and Indian meal, beans, potatoes, salt, vinegar, molasses and soft soap; that no milk nor liquor of any kind shall be permitted for their use except water; nor shall any groceries of any kind, or any articles used in the preparation of food, be purchased for the consumption of the said convicts other than those named above, with the exception of such articles as may be needed for patients in the Hospital, which shall be provided at the requisition, in writing, of the Physician to the Prison.

SECT. 2. *Be it further enacted,* That from and after the first day of April next, no article of food or drink of any kind shall be purchased at the expense of the State for the consumption of the Keeper, Turnkeys, Watchmen, or any other officer connected with the Prison, nor shall any rations of any kind be delivered to them or any one of them; but that, in lieu of the rations now furnished to the officers above named, there shall be allowed to each of the individuals above named, to be received in quarterly or monthly payments—To the Keeper the sum of three dollars, and to each of the others two dollars per week: And it shall be their duty

to form themselves into a mess or messes, and to appoint one or more of their number to take charge of providing the provisions, solid or liquid, they may wish to consume; and they shall have free use of the kitchen, store rooms and fuel for their use, which will be furnished by the Prison without charge.

Sect. 3. *Be it further enacted,* That from and after the first day of April next, all the articles required by the terms of this act shall be furnished by sealed tender, for the term of one year. And the Warden shall cause an estimate to be prepared of the quantities that may be wanted; and the Directors shall give public notice, by causing advertisements to be inserted three times in two different newspapers published in Boston, between the first and tenth day of March, annually, stating that sealed tenders will be received for the supplies of the articles wanted, and each of them separately, to be delivered at such times, and in such quantities, as the Warden and Directors may appoint, and to be paid for in quarterly payments; which tenders shall be opened by the Warden in the presence of the Directors, and the lowest offer shall be accepted: and the person so contracting shall give bonds, in a suitable penalty, for the due performance of the same.

Sect. 4. *Be it further enacted,* That from and after the first day of April next, all raw materials wanted for the use of the Prison, such as stone, wood, fuel, hospital stores, iron, steel and hard-ware goods, and also the truckage, shall be furnished by contract. And the Warden shall prepare an estimate of the probable quantities of these articles; and he, with the Directors, shall furnish a form of tender for these articles that may be most conveniently separated; and public notice shall be given in the same manner as is provided in the third section of this act, and the same stipulations and securities entered into for the delivery and payment of these articles and doing the truckage.

Sect. 5. *Be it further enacted,* That such part of the convicts, who are not employed in labouring for account of the Prison, shall annually be let to contractors, for the term of one year, to begin from the first of April; and that notice shall be given, by advertising in the same manner as is provided in the third section of this act, that all persons may apply at the Prison, to receive information regarding the prisoners, and the work they can perform; and sealed tenders shall then be received for any number of them, to be em-

ployed in such labour as the contractor may prefer, subject to the regulations established for the government of the Prison; the contractors shall give bond for the payment of the hire, in equal quarterly payments: And no officer of the Prison shall ever be concerned, directly or indirectly, in any contract for the hire of the convicts, under pain of dismission from his office: *Provided*, that nothing in this act shall go to destroy the fulfilment of any contracts heretofore entered into, on account of the Prison.

Sect. 6. *Be it further enacted*, That the State shall have a preferent claim over all other creditors, for any debts arising out of these contracts.

[Approved by the Governor, February 23, 1822.]

RULES AND ORDERS

ESTABLISHED BY THE DIRECTORS

OF THE

Massachusetts State Prison.

WHEREAS, by the "Act providing for the Government and Regulation of the State Prison," authority is given to, and it is declared to be the duty of the Directors of said Prison to make, ordain and establish all such rules, by-laws, orders and regulations (not repugnant to the laws of the Commonwealth) as they may from time to time see fit for the government of the Institution:

In pursuance thereof, the Directors of the State Prison have from time to time made and established sundry Rules, Regulations and By-Laws, and it being deemed necessary to collect, revise and amend the same, they have prepared the following, which are to have effect and be in force within the precincts of said Prison until they shall be annulled by his Excellency the Governor, by and with the advice and consent of Council, or until altered or repealed by the Board of Directors; and all former by-laws inconsistent herewith are hereby repealed:—

ARTICLE I.

Of the Directors.

SECTION 1. Stated meetings of the Board shall be held at the Prison on the last Wednesday in every month, at half past three o'clock, P. M. Two members will constitute a quorum. Any

Director may call a special meeting when he may judge it to be necessary.

Sect. 2. Each Director in rotation shall be Director for the week; whose duty it shall be to attend at the Prison three times at least on different days during his week of duty; to inspect into and give orders for regulating the general concerns of the Prison; to see that the several officers are attentive and faithful in the discharge of the duties assigned them; to suspend any officer for negligence, until the pleasure of the Board can be known; to see that cleanliness, decency and order are every where maintained, that the prisoners are kept at their work, yet treated with justice and humanity; to listen to their complaints and communications; to admonish the bad, applaud the good, and encourage all to amendment and reformation, and to give them such advice as may awaken virtuous sensibility and promote their moral and religious improvement.

Sect. 3. Each Director shall make a report to the Board, at its monthly meeting, of any extraordinary circumstance occurring during his week of duty.

Sect. 4. If, in the course of his tour of duty, it should be deemed necessary by the Director of the week to relieve any prisoner from punishment, to change his employment, to excuse him from labour on account of sickness, or to inflict punishment for misdemeanour, he shall give his orders therefor to the Warden or Keeper, by whom they shall be carried into effect.

Sect. 5. The name of the weekly Director shall be suspended in the Directors' room during his tour of duty, and the Clerk of the Prison shall notify in writing the succeeding Director on the Saturday of each week.

ARTICLE II.

Of the Warden.

Section 1. The Warden shall visit daily the yard, workshops and kitchens, in order the better to detect any irregularities which may be committed by the convicts, or any neglect of duty of either of the subordinate officers of the Prison, and shall frequently inspect the other parts of the Prison.

Sect. 2. The Warden shall lay before the Directors in writing at every monthly meeting, a written report of all matters and things which may require their advice and consideration; which report shall specify the number of convicts in the Prison, male and female, classing them under their different employments; how many have been received or discharged since the last return, the number sick and confined in the solitary cells, designating those confined under sentence of Court and those confined for irregularities; and the names of those whose term of confinement will expire within the month, and their usual places of residence prior to their confinement; together with all occurrences which have taken place within the Prison since the last meeting of the Directors.

Sect. 3. The Warden shall carefully examine the Keeper's daily report, and if there be any errors or omissions in the same, shall cause them to be corrected; and shall sign and transmit the same to the Director of the week before noon of each day.

Sect. 4. The Warden shall inspect into the moral conduct of the convicts; and shall have authority to punish offenders, by confinement in the solitary cells, and by reducing their usual allowance of food.

Sect. 5. The Warden is to superintend the clothing of the prisoners, and is to be responsible for the execution of the orders of the Directors concerning the same, allowing neither more nor less than the regulations prescribe.

Sect. 6. Whenever any article of clothing or a blanket is delivered to a prisoner, it shall be delivered under the direction of the Warden by one of the Turnkeys, to be charged with that duty, who shall enter the same in a book to be kept for that purpose.

ARTICLE III.

Of the Chaplain.

Section 1. The Chaplain shall preach a sermon and perform other religious services every Lord's day in the Chapel, at 12 o'clock, M. at which it shall be the duty of the convicts to attend.

Sect. 2. The Chaplain shall consider it to be his duty, as frequently as may be consistent with his other avocations, (and the ministers of the gospel of all religious denominations within the towns of Boston and Charlestown are invited) to visit such convicts as are sick in the Hospital; to instruct them in their spiritual concerns; to distribute moral and religious books among them at his discretion; and to do all other things within his province, which may aid the design of the Government in reforming the convicts.

ARTICLE IV.

Of the Physician.

Section 1. The Physician shall visit the Prison at least twice a week, and as much oftener as the exigencies of the sick may require. He shall prescribe the regimen proper for each patient, and, whenever he may deem it necessary, he shall report to the Director of the week, in writing, any temporary change of diet, dress or employment, which the convicts' health may require to be adopted, consistent with the principles and objects of the Institution.

Sect. 2. An order in writing from the Physician for supplies in the Hospital department, shall authorize the Warden to procure the same, and the Warden, by and with the advice and consent of the Director of the week, may appoint from among the most orderly of the convicts a suitable number to be employed by the Physician as attendants on the sick.

Sect. 3. It shall be the duty of the Physician to ascertain at each visit, from the sick, whether the medicines and supplies ordered for their relief and comfort, have been faithfully administered to them, and in case he discovers any fraud or neglect he shall immediately report the same to the Warden.

Sect. 4. The Physician shall record, in a book to be kept for that purpose, the names of the sick, their ages, occupations and diseases, the commencement and duration of their maladies, and the termination of them, the number cured, relieved, or whose cases proved fatal; he shall also register the nature and quality of medicines administered, the diet and general regimen; as also the clothing particularly prescribed by him and permitted by the Board.

Sect. 5. The officer assigned to the care of the Hospital shall have in charge the beds, bedding, furniture and other supplies in that department, which shall be kept in good order, and never used for any other purpose; and he shall from time to time report to the Physician the names of such prisoners as require medical advice, and while the Physician is at the Hospital he shall order and accompany the prisoner to the room appropriated to receive medical assistance; and no advice or prescription shall be asked of the Physician, or made in the yard or work-shops, or in any other apartment, unless the convict is unable to attend at the Hospital room.

Sect. 6. No stranger (with the exception of the ministers of the gospel) shall be permitted to visit the Hospital, unless attended by, or with the special leave of the Physician or Director; nor shall the convicts, while convalescent, or those designated to nurse and attend the sick, have any connexion or intercourse with the other convicts on any pretence whatever.

Sect. 7. The Physician is requested from time to time to propose to the Board of Directors such regulations and improvements as may have a tendency to promote cleanliness, health, and the interest of the Institution within his department.

Sect. 8. Spirituous liquor should be given as a medicine only on very particular occasions, and never without the order of the Physician in writing. And when, on his official and professional responsibility, he orders such medicine, he shall give notice to the Keeper of the quantity to be used, and the time when it may be administered.

ARTICLE V.

Of the Officers.

The officers of the Institution shall, in addition to the Warden, the Chaplain and Physician, be as follows, viz.—one Keeper, one Commissary and Clerk, three Turnkeys, and as many Watchmen and Overseers as may from time to time be found necessary.

ARTICLE VI.

Duties of the Commissary.

Section 1. It shall be the duty of the Commissary, under the direction of the Warden, to receive, take care of, and account for, all provisions, stores, clothing, raw materials, manufactures, and every other species of property belonging to the Institution of any kind or nature whatsoever (the household furniture, and the furniture now in the cells, and the kitchen furniture excepted,) and to enter the same in books to be kept for that purpose, in such form and under such regulations as may be prescribed by the Directors; and the same occasionally to issue out to the departments authorized to receive them: and also to deliver out to the respective Overseers of the work-shops the raw materials to be manufactured; to open accounts with each of them for the same, and to receive back the articles manufactured; to receive from the Overseers or Turnkeys the clothing, bedding, &c. of convicts discharged from the Prison, after they have been washed and made ready for future use; to inventory, weigh, mark, arrange, and have in marketable readiness the property manufactured; and generally to take the special charge of reception and of delivery of every article of any kind or nature whatever, which may be purchased for or used in the Prison, under such regulations as he may from time to time receive from the Directors: and he shall have his books and accounts always ready and at hand to be laid before the Board, if required, at each of their monthly meetings, and they may be also inspected daily by the weekly Director.

Sect. 2. The Commissary shall have constantly in readiness for inspection by the Director of the week, an exact account of the specific daily labour of each prisoner, as the same has been reported to him by the respective Overseers.

Sect. 3. The Commissary will be held responsible to the Directors, at each monthly meeting, for the observance of all the forms prescribed to the respective Overseers in keeping their books, and in the adjustment of the same; and no excuse will be admitted from him, should he have failed to enter his complaint to the Director of the week against any officer neglecting to settle his account with him weekly.

ARTICLE VII.

Duties of the Clerk.

Section 1. The Clerk shall notify meetings of the Directors, keep a table of the hours when the convicts shall arise in the morning, attend public worship, receive their meals, commence and discontinue their daily labour, and retire to their cells. This shall be regulated at the monthly meeting of the Directors in March, June, September and December, and the Clerk shall furnish the Warden with a copy of the same, and cause another copy to be suspended in the Directors' room. He shall also keep a register of the names, ages, places of birth, usual residence, description of crime, the county where convicted, time of entry, duration of sentence, and other prominent circumstances, of all the convicts now in the Prison and of those who may hereafter enter the same; and he shall aid and assist the Warden and the Commissary in keeping their books and accounts within those departments. He shall also record all the doings of the Directors, attend to the books of accounts of the Institution, cause them to be all posted up and balanced on the last day of every month, and every three months, at the meeting of the Directors, present a trial balance of the same.

Sect. 2. The Clerk shall attend all meetings of the Directors, record and countersign all warrants of appointments to office, notify the person chosen, and be the official organ of communication of any rule, order or resolve of the Directors to any department of the Prison.

Sect. 3. It shall be the duty of the Clerk to prepare, agreeably to the forms prescribed by the Board of Directors, the books of the respective Overseers, and to have them ruled in conformity thereto, and supply the Keeper and other officers with blank forms, and such books as may be ordered by the Directors.

Sect. 4. The Clerk shall publish in one of the Boston newspapers, once a year, the names and former residence of convicts dying in the Prison.

ARTICLE VIII.

Duties of the Keeper.

Section 1. The Keeper is to be answerable for the safe keeping of the convicts, for their industry and attention to labour, for the fidelity of all subordinate officers, and for the whole internal police of the Prison. He is specially charged with the inspection of the Hospital Department, and with the administering of spirit as a medicine when ordered by the Physician.

Sect. 2. The Keeper, besides attending to the safe keeping of the convicts, as in the preceding section, shall carefully inspect into their moral conduct, and see that strict attention be paid to the regulations relative to cleanliness, industry and sobriety. He shall see every prisoner in his custody at least twice in twenty-four hours. He shall attend the convicts when at chapel, and shall not be absent from the Prison, unless the convicts are all locked in their cells, except by permission of the Warden, who it is expected will remain at the Prison during his absence.

Sect. 3. The Keeper, in the absence of the Warden, is authorized to punish any convict for disorderly conduct. When the Warden is present, the Keeper will take his orders respecting any infraction of the rules of the Prison.

Sect. 4. The Keeper shall not permit any person to lodge or board in the Prison, except his family and the officers permitted by the Board of Directors.

Sect. 5. The Keeper shall have the particular superintendence of that portion of the building which is assigned for the accommodation of the officers of the Prison, and shall be responsible that the same is kept clean, and the furniture taken proper care of.

Sect. 6. The Keeper is enjoined to inform the weekly Director, without delay, of any act of unfaithfulness in any and every subordinate officer of the Prison, and of those who shall be guilty of profane or indecent language, of intemperance, of inhumanity to any convict, or of any other conduct contrary to the spirit of these Regulations, or incompatible with the design of this Institution.

Sect. 7. The Keeper shall make a daily report in writing to the Warden of the state of the Prison, noting the number of the

convicts, the guards on duty, and any matter which may have occurred within the past twenty-four hours; and shall transmit it to the Warden before 9 o'clock, A. M. The daily report for Monday morning must contain the names of all prisoners in the cells, and the cause of their confinement, the time they have been confined, and a particular account of the Prison on that day, that the Director of the week may be the more able to enter on the discharge of the duties which devolve upon him.

Sect. 8. The Keeper shall make a daily requisition in writing on the Commissary for provisions for the convicts, agreeably to the forms prescribed in that department. These requisitions shall be carefully filed by the Commissary and presented by him as the vouchers which will be required by the Directors to liquidate and adjust his account. In like manner the Keeper shall make his requisitions on the Commissary for clothing and such other articles as are allowed to the convicts.

Sect. 9. The Keeper is personally to call a roll of the officers at 10 o'clock, P. M.; after which the gates of the Prison are not to be opened, except in case of emergency. And he is to report every officer who is absent at roll call without leave, by inserting the name of such officer on his morning report.

Sect. 10. Strangers visiting the Prison with tickets, as aftermentioned, will be under the direction of the Keeper. He will see that improper persons are not admitted, and that no person, except by permission of the Director or the Physician, be admitted to the Hospital; and that no person be allowed on any pretence to see a prisoner when in solitary confinement.

ARTICLE IX.

Duties of the Turnkeys.

Section 1. One Turnkey shall be assigned to the care of the solitary cells, and one to the other part of each wing of the Prison. And it is hereby made the duty of this officer to examine each cell within his ward every day, in order to prevent contrivances for escape.

Sect. 2. The Turnkeys, with the aid of the Keeper and such Watchmen or Overseers as may be designated to aid them, will carefully lock up the prisoners at night, and relieve them at morning; and are enjoined to ascertain that each prisoner is in his proper cell.

Sect. 3. The Turnkeys in rotation are to be Captains of the Watch as hereafter mentioned.

Sect. 4. The Turnkey having charge of the cells is to receive in charge the clothing of the convicts on their entrance into the Prison, to mark and inventory the same, and to preserve them from injury to be returned to the prisoner when he shall be discharged.

ARTICLE X.

Duties of the Watchmen and Overseers.

Section 1. Four of the Watchmen shall be stationed on the walls of the yard, when the convicts are out of the cells: the others shall be employed in the work-shops, or such other places as the Board of Directors may order, in overseeing the convicts and keeping them at work; they shall assist the Turnkeys in searching the convicts on their return to their cells, and in locking and unlocking their cells when the convicts leave or return to them.

Sect. 2. The Watchmen placed on the wall are not to suffer any of the convicts to continue behind the work-shops longer than there may be a necessity, and in case they discover any of them lurking there, they are to order them to repair to their work without delay, and in case they refuse, they are to cause the Keeper to be informed thereof directly.

Sect. 3. The Watchmen, while on the wall, are to observe the conduct of the convicts in the yard; they are to forbid any conversation, or appearance of combination, and if they discover any they must report the same, with the names of the convicts, to the Keeper without delay.

Sect. 4. Fines not exceeding one month's pay for each offence, may be assessed by the Directors on the Watchmen for negligence, and deducted from their wages. And whenever a convict escapes, the officer having him in charge will be assessed a fine of

one month's pay, which will be exacted of him in all cases whatever.

Sect. 5. The Overseers in the shops are to see that the prisoners are industrious, orderly and silent, that they perform their tasks faithfully, and are not unnecessarily absent from their stations. They will report to the Keeper all instances of peculiar industry and attention, and all cases of insubordination or negligence.

Sect. 6. All persons to be appointed to any office in the Prison, will in the first instance be elected candidates, and be required to serve three months on probation, and if, during that period, they conduct to the satisfaction of the Directors, will then receive a warrant of appointment.

Sect. 7. All officers are to be sworn to the faithful discharge of the duty assigned them, and are to subscribe articles, promising to conform to the rules and regulations which may from time to time be established.

Sect. 8. Nothing in these regulations is to be considered as precluding the Directors from varying the duties of the several officers, or assigning them extra-duty, when the state of the Prison requires it.

Sect. 9. The tenure of all office will be the pleasure of the Directors for the time being, and will be so expressed in the warrant.

ARTICLE XI.

Combined Duties of Officers.

Section 1. The Keeper, Turnkeys and Watchmen shall be considered as the guard of the house; all of them shall be at the Prison the whole of every day, and not more than one half the effective force of the Prison shall be permitted to be absent at night.

Sect. 2. The Turnkeys and Watchmen shall perform the duties of a night watch, and arrangements shall be made by the Keeper for a regular routine of this duty. A Turnkey shall be Captain of the Watch for twenty-four hours and until duly relieved. The door from the house to the Prison will be considered under his sole care; and as this is the most important station in

the building, and on the proper security of which the safety of the Institution and even the lives of the officers depend, the officer having it in charge will be held strictly responsible for his fidelity and attention.

Sect. 3. In case of insurrection in the Prison, or an attempt of the convicts or any one of them to escape, it is made the duty of the several officers, and of the Watchmen on the walls, to prevent it by all the means in their power, and should any convict attempt to force the gates, or scale the walls, the Watchmen must prevent the accomplishing of this object in the same manner.

ARTICLE XII.

Of the General Police and Safety of the Prison.

Section 1. Each of the officers of the Prison shall be furnished with a gun, bayonet, the necessary accoutrements, and a cartridge box containing at least twelve cartridges with balls, and a strong heavy cutlass, to be kept in good order in a safe and convenient place, for use in cases of insurrection of the convicts and for self-defence.

Sect. 2. The Alarm Bell shall be rung only in cases of fire in the Prison, insurrection among the convicts, or when foreign aid may become necessary.

Sect. 3. No officer shall sell any thing belonging to the Prison, nor buy, sell or barter any article by which profit may be derived, nor hold any unnecessary intercourse with the prisoners; nor shall he take or receive to his use any fee, gratuity or emolument from any persons whomsoever committed to his custody, nor from any of their relations or friends, nor from any person who visits the Prison.

Sect. 4. Every convict shall be strictly searched on entering the cell by the officer who shuts him up, after which every lock shall be carefully inspected by the Turnkeys and reported by them to the Keeper.

Sect. 5. When a prisoner escapes the Keeper shall without delay inform the Warden in writing of the circumstances of the

case, with the name of the officer under whose care he was, and shall in like manner inform the Director of the week, who shall thereupon call a special meeting of the Board, and an inquiry shall immediately be had, and if it shall appear that the same was the effect of negligence or improper conduct on the part of any person or persons employed in the Prison, he or they so offending shall be directly displaced from office.

Sect. 6. No prisoner shall be permitted to work for any of the officers of the Prison, except by permission of the Warden ; and it shall be considered a high breach of these Rules and Regulations if any officer employ a prisoner on private work without such consent.

Sect. 7. The hours the convicts shall be taken from and returned to their cells and receive their meals shall be suspended in the Directors' room, and are not to be departed from except in cases of extreme necessity.

ARTICLE XIII.

Of the Prisoners.

Section 1. Prisoners must be informed by the Keeper, on their entering the Prison, that a quiet and ready obedience to the Rules and Orders made for the government of the Prison, and submission to the officers thereof, their industry and the faithful manner they execute the daily task assigned them, will be their only claim to any favour within the power of the Directors to grant; that this obedience and submission are indispensably required of all the prisoners, and that all insolence and ill language, and all obstinate and refractory behaviour will subject the offender to punishment.

Sect. 2. When a convict enters the Prison, the Keeper or Turnkey shall convey him to the Reception room, and cause the whole of this article to be read to him ; his hair shall then be cut short, he shall wash himself, be shaved, and have delivered to him a suit of Prison clothing ; an inventory shall be taken of the clothing brought into the Prison by the convict. The Keeper shall then ascertain and note in writing from the prisoner the place of his birth, the usual place of his residence, his age, occupation, his height,

complexion, and such other circumstances as, in the event of his escape or death, might hereafter be useful.

Sect. 3. It is required of the convicts, that they attend all appointed religious services, that they pay a decent regard to the Chaplain, and that, during divine worship, they behave with reverence and decorum. All instances of irreverent or improper behaviour shall be punished.

Sect. 4. Male and female convicts are to lodge, eat, and be employed in separate apartments, and have no intercourse with each other.

Sect. 5. The prisoners, except such as shall be exempted from labour by the Physician, or are sentenced to solitary confinement, shall be kept constantly employed in such kind of hard labour as shall be ordered by the Board of Directors. No work shall be carried on in the rooms or entries of the Prison, nor shall the convicts be permitted to converse with each other while at work, and they shall never be left in the yard or the apartments of the work-shops without an officer.

Sect. 6. The convicts who distinguish themselves by their attention to cleanliness, sobriety, quiet submission and respectful behaviour to the officers, and industry and faithfulness when at work, shall be reported to the Board of Directors, that they may be arranged properly into classes, and receive such encouragement and indulgences as may be deemed consistent.

Sect. 7. The prisoners shall be arranged into classes according to the provisions of law.

No prisoner of the third class shall be permitted to see or converse with any person from abroad, or to send to or receive from any person any letter, message or paper, or any thing of any kind or description.

Prisoners of the second class may receive letters and send them to their friends, and may see and converse with them once in six months, but not oftener.

Prisoners of the first class may have the same liberty once in three months, and oftener in special cases, by permission of the Director of the week.

Sect. 8. Prisoners who have done a full day's task, and are inclined to earn any thing for themselves, may be allowed to do so, and shall receive compensation therefor.

Sect. 9. When any prisoner of the third class is entitled to any compensation for over-work, the amount shall be received by the Clerk, and remitted to his friends, or kept for his use till his discharge from Prison, at the prisoner's option.

Prisoners of the second class may be allowed to expend one half of such money in the purchase of articles hereafter enumerated.

Prisoners of the first class may be allowed to expend the whole in the same manner: Provided that no person shall be allowed to expend more than twenty-five cents of his earnings per week; and provided that this liberty may be restrained or suspended whenever it is found inconvenient; and provided also, that no food thus procured shall ever be consumed in any other place than the common hall.

The following articles only can be delivered to prisoners for their extra work, viz.—

Tea, Chocolate, Pork, Cheese, Onions and Chewing Tobacco; Shoes, Socks, Caps, Vests, Neck Handkerchiefs.

Over-stint compensation being the reward of personal industry, prisoners are strictly forbidden to bargain, sell, give, exchange, or otherwise part with it from one to another.

Sect. 10. Prisoners are to have one pair of coarse cloth pantaloons, and one jacket of the same material for winter; and one pair of thin pantaloons and jacket of the same for summer; and two pair of shoes, two pair of socks, and three coarse shirts per annum; and are not to be supplied with any other article of clothing at the expense of the Prison; excepting only that, when prisoners are engaged in such work as necessarily requires other or more clothing, it may be procured by an order of the Directors passed at any regular meeting. Each prisoner is to have two blankets, and no more.

Sect. 11. If any prisoner designedly injures his clothing or blankets, he shall be punished therefor by the Warden.

Sect. 12. If any prisoner shall refuse to obey the orders of the officers, or the Rules and Regulations of the Board of Directors, or shall strike, threaten, or forcibly resist the officers, or shall be guilty of profane cursing or swearing, of disrespectful behaviour in the Chapel, or shall assault, quarrel with, use abusive language, or shall game with or defraud any of his fellow prisoners, or shall attempt to escape, or shall conspire with any person so to do, or

shall wilfully waste, spoil, damage or destroy any goods committed to him to manufacture, or the beds, bedding, clothes or utensils of the Prison, he shall be punished by being obliged to wear a chain with a clog at one end, or an iron collar, or both, or with confinement on bread and water in the solitary cells, and report shall be made of the nature and aggravation of the offence by the Keeper on the daily report.

Sect. 13. Prisoners, while wearing chains for insubordination, shall be confined during the night in solitary cells, when the situation of the Prison will permit, and as a consequence of punishment will be degraded to the third class.

ARTICLE XIV.

Of Cleanliness.

Sect. 1. The convicts shall be clothed in a shirt, a short jacket with sleeves, and trowsers of strong and cheap materials, and of one or more colours, according to their classes, as provided by law. They shall not sleep in any other clothing than their shirts. They shall have a crib or hammock, straw bed and pillow, two blankets, and a seat or stool, and no other article shall be permitted in the cells. The beds and bedding shall be exposed in the air one day in every week; the cells and entries shall be white-washed at least every year; and every kind of filth shall be carried without the walls daily and burnt. The convicts shall wash their faces and hands and comb their hair every morning, be shaved twice a week, have their hair cut once a month, and change their shirts once a week.

Sect. 2. The floors of the cells and the entries shall be swept every morning, washed once a week in summer, and once a fortnight the remainder of the year.

Sect. 3. No hogs, dogs, pigeons or poultry shall be kept within the walls of the Prison, or the lands appertaining to the same, except in such places as may be approved by the Board of Directors.

Sect. 4. The attendants in the Hospital shall air the beds and bedding every day when in use and the weather will permit,

change the sheets at least once a week, sweep the rooms twice a day, and pay the strictest attention to cleanliness, and perform all the duties required of them by the Physician.

ARTICLE XV.

Of the Diet of the Prisoners.

SECTION 1. The diet of the prisoners will be as follows:—

TUESDAY, THURSDAY, SATURDAY AND SUNDAY.

Breakfast and Supper—Three gills of Indian meal made into hasty pudding, or half a pound of coarse bread, and half a gill of molasses.

Dinner—Fourteen ounces of coarse meat or offal made into soup, half a pint of potatoes, and half a pound of coarse bread.

WEDNESDAY.

Breakfast and Supper the same.

Dinner—Half a pound of salted pork, half a pint of beans, and half a pound of coarse bread.

MONDAY AND FRIDAY.

Breakfast and Supper the same.

Dinner—Half a pound of salted fish, with one ounce of hogs' lard, and half a pound of coarse bread, and a pint of potatoes.

The ordinary drink of the prisoners shall be water. No cooking or eating will be permitted in the work-shops, or in the Prison building. All food is to be prepared in the kitchen by the regular cooks, and eaten in the dining hall.

All prisoners in the solitary cells, either by order of Court or for improper conduct in the Prison, are to be fed on bread and water only. The allowance to each prisoner will be eight ounces of bread for twenty-four hours, with as much water as may be necessary.

Prisoners who do not perform a day's task, will be allowed only two meals a day, viz. breakfast and dinner.

SECT. 2. The convicts in the Hospital will be regulated in their diet and regimen by the Physician, who will transmit, through

the officer intrusted with the superintendence of that department, his instructions to the Commissary, which he will comply with for every article, either for diet, regimen or medicine.

ARTICLE XVI.

Of Schools and Instruction.

Section 1. Three rooms in the second arch of the east wing of the Prison shall be set apart for the use of schools, one of which shall be assigned to the blacks.

Sect. 2. Young men and boys shall be taught the first rudiments of learning, viz. reading, writing and arithmetic; and the most exemplary and best skilled of the convicts shall be selected for their instructers. Suitable rules and regulations for the government and discipline thereof shall be suspended in the rooms, and all deviations therefrom shall be reported to the Keeper for punishment.

Sect. 3. The schools shall be inspected by the Director of the week as often as he may think proper; and an examination of the progress of the scholars shall be made every quarter by the Board, or a Committee thereof, at which examination the Chaplain shall be invited to attend.

ARTICLE XVII.

Of Strangers.

Section 1. All persons entitled by law to visit the Prison will be received and attended through the shops, kitchen, hall and arches, on making their request known to the Keeper.

Sect. 2. Persons not otherwise entitled will be admitted to the like privilege, on paying twenty-five cents each, which sum is to be received and appropriated to the general concerns of the Prison.

Sect. 3. No stranger or other person can be permitted to furnish any article of provision or clothing, or any book, paper, or

other thing whatever to any prisoner, without the approbation of the Directors at a stated monthly meeting.

Sect. 4. No stranger is allowed to speak with a convict, unless in presence of a Director or the Warden, on leave first obtained therefor.

Sect. 5. Strangers are not to visit the Hospital, nor will any person be permitted to see a prisoner while in solitary confinement on any pretence whatever.

APPENDIX.

THE foregoing Rules and Orders were laid before His Excellency the Governor and the Honourable Council, at their next meeting after the adoption thereof, in pursuance of the provisions of the statute, [Sect. 4. p. 31.] and the following Report and Resolution were passed thereon:

COMMONWEALTH OF MASSACHUSETTS.

Council Chamber, May [March] 7th, 1823.

THE Committee appointed to examine the Rules and Orders established by the Directors of the State Prison for the government thereof, have given as much attention to the subject as the shortness of the present session would admit it, and are not prepared to offer any objections to any of said Rules and Orders, except as follows:

They conceive that the second, third, fourth and fifth paragraphs of the 9th Section of the XIIIth Article are objectionable, inasmuch as, in the opinion of your Committee, they are contrary in their provisions to the spirit, if not the letter, of the first section of the act passed February 23d, 1822, entitled "An Act for regulating the Supplies of Food and other Articles for the State Prison, and for letting by Contract the Labour of the Convicts:" And although they are aware that the terms of said section may be so construed as to imply that other articles, besides those specified as food for the convicts, may be allowed them if not purchased at the expense of the Commonwealth; yet they conceive it to have been the intent of the Legislature, that the quality of the diet and clothing should be part of the punishment of the convicts, and therefore cannot be altered at the discretion of the Directors, except in cases wherein special authority may be given them for that purpose.

For the same reason they deem that part of the 3d Section of Article XVII. which provides for an allowance of provisions and clothing brought to the Prison for the use of the convicts by strangers, equally objectionable.

The Committee therefore recommend, that the said second, third, fourth and fifth paragraphs of the said 9th Section, Article XIII. and also so much of said 3d Section, Article XVII. as allows strangers or other persons to furnish food or clothing or any other articles whatever for the use of the convicts, with the approbation of the Directors, except books and papers, be disallowed and annulled.

Which is respectfully submitted.

WM. PHILLIPS, *Chairman.*

In Council, March 7th, 1823.

This Report is accepted.

A. BRADFORD, *Secretary.*

Copy——

A. BRADFORD, *Secretary.*

In consequence of the repeal of the several parts of the aforesaid 9th Section of Article XIII. the prisoners are not permitted to receive any of the articles therein enumerated, or any articles whatever, for consumption or use, except their clothing and the rations in the foregoing Orders established.

All persons, therefore, and particularly all officers and contractors, are hereby specially enjoined to conform to the foregoing direction, any custom or usage to the contrary notwithstanding.

In conformity also to the Report and Resolution aforesaid, the 3d Section of Article XVII. is to read as follows:

No stranger or other person can be permitted to furnish any article of provision or clothing to any prisoner on any pretence whatever; nor to furnish any book or paper without the approbation of the Director of the week.

A true Copy of the Record.

WM. H. LANE, *Clerk.*

(June, 1889, 20,000)

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